UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CORINTHIAN MEDIA, INC.,

Plaintiff,

-against-

AUTOMAX MEDINA LLC. d/b/a
BILL DORATY KIA,

Defendant.

COMPLAINT

Case No.

Plaintiff, as and for its Complaint against the defendant, alleges that:

1. Plaintiff is a Delaware corporation that maintains its principal office in the County and State of New York.

2. Defendant is a limited liability company organized under the laws of the State of Ohio whose member or members, on information and belief, are citizens of states other than New York and Delaware.

3. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1332 because this is an action between citizens of different states where the matter in controversy exceeds the sum or value of $75,000.00, exclusive of interest and costs.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because "a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is subject of the action, is situated" in this district and because the parties in their contract consented to this Court's jurisdiction and venue.

FIRST CLAIM FOR RELIEF – FOR SERVICES RENDERED AND ACCEPTED

5. Plaintiff provides media buying services for advertisers.

6. Defendant operates a Kia automobile dealership and other auto-related businesses in Ohio.

7. On May 13, 2015, plaintiff entered into a "Standard Advertising Brokerage Agreement" (the "Agreement") with defendant whereby defendant retained plaintiff as its "exclusive agent for planning, purchase and arrangement" of advertising for defendant's auto businesses for a term of one year.

8. The Agreement provides that plaintiff's compensation was 6.5% of the "gross cost of any and all time buys and advertising purchased" for defendant, which included "all advertising purchased or arranged for [defendant] during the term of this agreement, irrespective of whether [plaintiff] or others purchased and/or arranged for such advertising or whether such advertising ran after the term of this Agreement."

9. Thereafter, plaintiff provided the services specified in the Agreement for defendant.

10. Defendant accepted and retained all services rendered without objection.

11. Plaintiff delivered invoices to defendant for the commissions earned under the Agreement, which defendant received and retained without objection and remitted partial payments thereon.

12. The Agreement provides that each invoice "will be presumed to be correct absent manifest error."

13. The Agreement provides that if any invoice is not paid within 59 days of date of invoice, defendant shall incur a "delinquency charge equal to 10% per annum on the

daily unpaid amount . . . and shall reimburse [plaintiff] for all costs of collection, including attorneys' fees and disbursements."

14. In December 2015, defendant notified plaintiff that it planned to bring media purchasing in house beginning in January 2016 and elected to end the Agreement pursuant to a contractual "Termination for Convenience" clause therein.

15. The "termination by convenience" terminated the Agreement at the end of March 2016.

16. Plaintiff invoiced defendant for commissions on the estimated amounts of the media defendant purchased during the months of January, February, and March 2016.

17. Defendant received and retained these invoices without objection.

18. Defendant promised to remit payment thereon.

19. Defendant remitted partial payments to plaintiff in January 2016.

20. With credit for all payments made by defendant, there is an open and unpaid balance due for services rendered and accepted of $84,324.07.

21. Defendant has failed to remit payment in full, though duly demanded.

SECOND CLAIM FOR RELIEF - BREACH OF CONTRACT

22. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 21 above with the same force and effect as if set forth in full herein.

23. By virtue of the foregoing, plaintiff is entitled to judgment against defendant in the amount of $84,324.07 for breach of contract, plus interest thereon.

THIRD CLAIM FOR RELIEF – ACCOUNT STATED

24. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 23 above with the same force and effect as if set forth in full herein.

25. On February 18, 2016, an account was stated by plaintiff to defendant in the amount of $84,324.07, the balance remaining due upon the invoices received by defendant less the payments received.

26. The account was delivered to, accepted, and retained by defendant without objection.

27. No part thereof has been paid, although due and duly demanded, and there is now due and owing from defendant to plaintiff the sum of $84,324.07 together with interest thereon.

28. Plaintiff is entitled to judgment in the amount claimed on the basis of an account stated, plus interest thereon.

FOURTH CLAIM FOR RELIEF – ATTORNEYS' FEES

29. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 28 above with the same force and effect as if set forth in full herein.

30. By virtue of the foregoing, plaintiff is entitled to recover its attorneys' fees and disbursements in this matter, in an amount to be determined by the Court.

WHEREFORE, plaintiff demands judgment against defendant as follows:

A. On the First, Second, and Third Claims for Relief, awarding plaintiff damages of $84,324.07, plus interest thereon;

B. On the Fourth Claim for Relief, awarding plaintiff its attorneys' fees and disbursements in an amount to be determined by the Court; and

C. Granting plaintiff such other and further relief as the Court deems just and proper.

Dated: New York, New York
June 1, 2016

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